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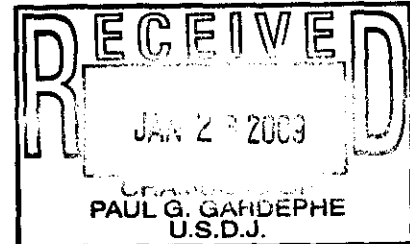
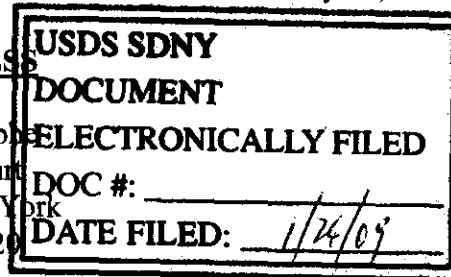
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January 23, 2009

**VIA FEDERAL EXPRESS**

Honorable Paul G. Gardephe  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 920  
New York, NY 10007



**RE: Vlad Lyubovny v. William Leonard Roberts II p/k/a "Rick Ross"**  
**08 Civ. 7252 (PGG)**

Dear Judge Gardephe:

We are the attorneys for the Plaintiff in the above entitled action. We write this letter pursuant to your Honor's Order dated December 16, 2008, to inform the Court of the service of Defendant in this action. Preliminarily, as the Court suggested during the December 11, 2008 conference in this action, I asked Defendant's attorney of record in this action, Mr. Zamren, to attempt to obtain authority to accept service on behalf of his client. Defendant did not so authorize Mr. Zamren. Accordingly, we engaged a process server in Florida to serve Defendant, and Defendant was then served on January 6 and January 21, respectively, by "nail and mail" service, at two separate addresses in Florida, as further explained below. Copies of the Affidavits of Service, which were both filed earlier today, are enclosed.

The process server first served Defendant at Defendant's address contained on documents that he filed in this action, i.e. 1750 Northwest 193<sup>rd</sup> Street, Opa Locka, Florida 33056. (See for example Docket Entry #5, the Affidavit of William Leonard Roberts dated October 15, 2008). Copies of these documents served upon us by Defendant, including the envelope in which the documents arrived, are also enclosed herewith. (The Court will note the Opa Locka return address contained on that envelope, as well as the Opa Locka address appearing below Defendant's signature on the Affidavit. Moreover, following the last conference before your Honor, Defendant's counsel of record in this action confirmed to me on December 24, 2008 that Opa Locka address appears on Defendant's current driver's license.

The process server made three attempts to personally serve Defendant at varying times of day at this address, but no one answered the door. Accordingly, as set forth in the Affidavit of Service, Defendant was served pursuant to § 308(4) of the Civil Practical Law and Rules of New York, N.Y.C.P.L.R. § 308(4), which states, in relevant part, that "where service ... cannot be made with due diligence, [service may be made] by affixing the summons to the door of either the

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actual place of business, dwelling place or usual place of abode within the state of the person to be served and by either mailing the summons to such person at his or her last known residence..."

In an abundance of caution, we have also served Defendant at 10398 Laurel Road, Davie, Florida 33328-1357, which we have reason to believe may be another residence used by Defendant. Again, after the process server attempted to personally serve Defendant at this address three times, and on one occasion made eye contact with people inside the house who refused to answer the door, Defendant was served under NYCPLR § 308(4).

Accordingly, we believe that there is no longer any question that Defendant has been properly served, and respectfully request that an Order be issued directing Defendant to Answer the Complaint.

Respectfully submitted,



Brian D. Caplan


Enclosures

cc: Allan Stephen Zamren, Esq. (via fax, with enclosures)

**MEMO ENDORSED**

*The application is denied. This action is governed by the Federal Rules of Civil Procedure, which provide for a time period within which answers or other responses to a complaint must be served and filed.*

**SO ORDERED:**

  
**Paul G. Gardephe, U.S.D.J.**

**Dated:** Jan 26, 2009